

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

MARVIN MATHIS,	:	
	:	Civil Action No. 15-2092 (JLL)
Petitioner,	:	
	:	
v.	:	<b>ORDER</b>
	:	
ATTORNEY GENERAL OF THE STATE	:	
OF NEW JERSEY, et al.,	:	
	:	
Respondents.	:	

IT APPEARING THAT:

1. On March 23, 2016, this Court entered an order and opinion denying Petitioner Marvin Mathis's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and denying Petitioner a certificate of appealability. (ECF Nos. 16-17).
2. On April 22, 2016, Petitioner filed a notice of appeal. (ECF No. 18).
3. On that same day, Petitioner also filed an application to proceed *in forma pauperis* on appeal. (ECF No. 19). Petitioner's application, however contains neither an affidavit setting forth Petitioner's indigence, nor a certified inmate account statement. (*Id.*). Indeed, Petitioner specifically acknowledges in his notice of appeal that he has not yet received his account statement, but will file one at a later date. (ECF No. 18). Petitioner has also failed to provide a statement of the issues he wishes to raise on appeal in either his notice of appeal or application to proceed *in forma pauperis* on appeal. (ECF Nos. 18-19).
4. Pursuant to Fed. R. App. P. 24(a)(1), this Court may grant a Petitioner *in forma pauperis* status on appeal where the Petitioner shows, in the detail required by Form 4 of the

Appendix of Forms, that he is unable to pay or to give security for the fees and costs on appeals, and states the issues that he intends to present on appeal.

5. Under Local Appellate Rule 24.1(c), however, in those cases where 28 U.S.C. § 1915(b) does not apply, such as in the habeas context, those prisoners seeking to appeal *in forma pauperis* must file “an affidavit of poverty in the form prescribed by the Federal Rules of Appellate Procedure accompanied by a certified statement of the prison account statement(s) (or institutional equivalent) for the 6 month period preceding the filing of the notice of appeal.” Form 4 of the Appendix of Forms likewise states that where the appellant is a prisoner appealing in a civil action, he “must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts.”

6. Petitioner’s application to proceed *in forma pauperis* does not include a list of the issues he seeks to raise on appeal, nor does it include an affidavit setting forth Petitioner’s indigence including a certified account statement as required by Rule 24(a)(1), Local Rule 24.1, and Form 4 of the Appendix of Forms. Petitioner’s application to proceed *in forma pauperis* on appeal is therefore deficient and must be denied without prejudice at this time.

IT IS THEREFORE on this 26<sup>th</sup> day of April, 2016,

ORDERED that the Clerk of the Court shall RE-OPEN this case for the purpose of this Order only; and it is further

ORDERED that Petitioner’s application (ECF No. 19) for leave to appeal *in forma pauperis* is DENIED WITHOUT PREJUDICE; and it is further


ORDERED that the Clerk of the Court shall provide Petitioner with a blank copy of an

Affidavit Accompanying Motion for Permission to Appeal In Forma Pauperis<sup>1</sup>; and it is further

ORDERED that Petitioner is given leave to file another application to proceed *in forma pauperis* on appeal within thirty (30) days of the date of this order; and it is further

ORDERED that if Petitioner wishes to refile his application to proceed *in forma pauperis* on appeal, he must do so by filing a new application including a statement of the issues he intends to raise on appeal, an affidavit setting forth Petitioner's indigence with the specificity required by the Local and Federal Rules of Appellate Procedure, and a certified six-month prison account statement from the facility in which Petitioner is detained; and it is finally

ORDERED that the Clerk of the Court shall serve a copy of this Order on Plaintiff by regular U.S. mail and shall CLOSE the file.

  
\_\_\_\_\_  
Hon. José L. Linares,  
United States District Judge

---

<sup>1</sup> See [http://www2.ca3.uscourts.gov/legacyfiles/ifp\\_affidavit.pdf](http://www2.ca3.uscourts.gov/legacyfiles/ifp_affidavit.pdf).